

Christina de Cristo
Oregon Supported Living Program
1250 Charnelton St
Eugene OR 97401

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Ferndale Drive Group Home
Requested by: Oregon Supported Living Program

Dear Ms. de Cristo:

On June 5, 2008, you submitted a request on behalf of the Oregon Supported Living Program (“OSLP”) asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by June 6, 2008, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. OSLP owns the group home for persons with developmental disabilities on Ferndale Drive in Eugene, Oregon.
2. OSLP proposes to remodel the house; the work will include such improvements as the addition of a bathroom, the replacement of exterior doors, and various other renovations.
3. OSLP intends to use \$100,000 in Housing Development Grant (Trust Fund) and \$74,758 in HELP grant funds from Oregon Housing and Community Services Department (“OHCS”) for the project.
4. It is not anticipated that any public agency will use or occupy any part of the improvements.

CONCLUSIONS OF LAW

1. The project is intended to be privately owned. Less than \$750,000 in funds of a public agency will support the project, and no public agency will occupy or use the improvements. Therefore, the definitions of a “public works” under ORS 279C.800(6)(a)(B) and (C) do not apply to this project.
2. If the project is a public works under ORS 279C.800(6)(a)(A), the exemption applies for privately owned projects for which less than \$750,000 of funds of a

public agency are used and less than 25 percent of the square footage will be occupied or used by a public agency. ORS 279C.810(2)(c).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will not apply to the Ferndale Drive Group Home project.

This determination is based on the agency's file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

REQUEST FOR A RECONSIDERATION

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the determination.

RIGHT TO A HEARING

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and ORS 279C.817. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, Oregon 97232

If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the

hearing, an order confirming, modifying, or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: June 12, 2008

Brad Avakian, Commissioner
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in black ink and is positioned above a horizontal line.

Christine N. Hammond, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On June 12, 2008, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Ferndale Drive Group Home project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Victor Merced
Oregon Housing and Community Services
725 Summer St NE, Suite B
Salem OR 97301-1266

Gerhard Taeubel, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries